

Appl. No. : 09/354,058
Filed : July 15, 1999

REMARKS

Claims 1-4, 7-13, 15-17, 19-23, 25-27, 29 and 30 were pending in the present application. By this Response, As indicated below, Applicant is amending Claims 1-4, 7, 8, 10, 12, 13, 15-17, 23, 27 and 30 and is canceling Claims 20-22, 25, 26 and 29 without prejudice or disclaimer. Claims 9, 11, and 19 remain as previously presented.

Thus, after entry of the foregoing amendments, Claims 1-4, 7-13, 15-17, 19, 23, 27 and 30 are presented for further consideration, and Applicant respectfully requests allowance of Claims 1-4, 7-13, 15-17, 19, 23, 27 and 30.

ALLOWABLE SUBJECT MATTER

Applicant thanks the Examiner for the indication of allowable subject matter in the pending claims. In particular, the July 16, 2007 Office Action indicated that all the claims would be would be allowable if rewritten to overcome the claim objections and the 35 U.S.C. § 112, second paragraph, rejections.

CLAIM OBJECTIONS

The July 16, 2007 Office Action objected to Claims 1, 25 and 26 for informalities. In particular, the Office Action objected to the phrase "a plurality of backup cells each comprising." By the foregoing amendments, Applicant has endeavored to address the Office Action's objections, and Applicant respectfully requests the objections to be withdrawn.

REJECTIONS UNDER 35 U.S.C. § 112

The Office Action rejected Claims 1, 4, 10, 16, 23 and 27 under 35 U.S.C. § 112, second paragraph, for various formalities. In particular, the Office Action states that:

There is not any consistency among the claims limitations of the independent claims because of the recitations of "manager component", "first manager component" and "second manager component", "a first group of network computing devices", "a first network computing device", and "a second network computing device(s)", and "media component."

Applicant respectfully disagrees with this rejection and is unaware of any statutory requirement in connection with 35 U.S.C. § 112, second paragraph, or any M.P.E.P. section that states that different independent claims must use the same terms in each

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of the claims. Applicant further notes that similar language has been used in the claims since the filing of the application in 1999. If this rejection is maintained, Applicant respectfully requests the Examiner to point to specific statutory support or a specific section in the M.P.E.P. as a basis for the rejection.

Claim 27 was rejected for containing a "whereby" clause and for reciting the phrase "capable of." By the foregoing amendments, Applicant has endeavored to address the Office Action's rejection, and Applicant respectfully requests that the rejection to Claim 27 be withdrawn.

The Office Action also suggests that Claim 27 would read better with an "a" prior to the claim's recitation of "means for communicatively..." Applicant respectfully disagrees with the Office Action's suggestion and submits that the pending claim language is proper and finds proper statutory support under 35 U.S.C. § 112, sixth paragraph.

Thus, in view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration and allowance of the aforementioned claims.

RESCISSION OF ANY PRIOR DISCLAIMERS AND REQUEST TO REVISIT ART

The claims of the present application are different and possibly broader in scope than any previously pending claims, pending claims in any related application or issued claims in any related patent. In particular, in one or more previous amendments, Applicant amended claims and/or presented arguments in view of at least U.S. Patent Nos. 5,005,122; 5,276,867 and 4,995,035. To the extent that any amendments or characterizations of the scope of any claim or referenced art could be construed as a disclaimer of any subject matter supported by the present disclosure, Applicant hereby rescinds and retracts such disclaimer. Accordingly, the above-listed references, or other listed or referenced art may need to be re-visited.

NO DISCLAIMERS OR DISAVOWALS

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicant is not conceding in this application that previously pending claims are not patentable over the cited

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references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

REQUEST FOR TELEPHONE INTERVIEW

Applicant has conducted both an in-person interview and a telephonic interview with the Examiner in connection with Applicant's previous two amendments. During these interviews, Applicant endeavored to address all the claim formality objections and rejections raised by the Examiner. However, each subsequent Office Action appears to raise a new claim formality objection/rejection.

In order to expedite prosecution of this application, Applicant's undersigned attorney of record hereby formally requests a telephone interview with the Examiner as soon as the Examiner has considered the effect of the arguments presented above. If there are any other formality objections or rejections remaining in connection with the pending claims, Applicant respectfully requests the Examiner to raise these objections/rejections in the interview so that they all can be addressed.

CONCLUSION

In view of the foregoing, the present application is believed to be in condition for allowance, and such allowance is respectfully requested. If further issues remain, the Examiner is cordially invited to contact the undersigned such that the issues may be promptly resolved.

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Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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